




CLOSED CASE SUMMARY

ISSUED DATE: NOVEMBER 15, 2023

FROM: DIRECTOR GINO BETTS 
OFFICE OF POLICE ACCOUNTABILITY

CASE NUMBER: 2023OPA-0216

Allegations of Misconduct & Director's Findings

Named Employee #1

Allegation(s):		Director's Findings
# 1	5.001 - Standards and Duties POL-10. Employees Will Strive to be Professional	Not Sustained - Unfounded (Expedited)
# 2	5.140 - Bias-Free Policing, 5.140-POL-2 Officers Will Not Engage in Bias-Based Policing	Not Sustained - Unfounded (Expedited)
# 3	15.410 - Domestic Violence Investigation, 15.410-POL 2. Officers Make Arrests with Probable Cause	Not Sustained - Unfounded (Expedited)

This Closed Case Summary (CCS) represents the opinion of the OPA Director regarding the misconduct alleged and therefore sections are written in the first person.

EXECUTIVE SUMMARY:

The Complainant alleged Named Employee #1 (NE#1) was unprofessional, engaged in bias-based policing, and failed to make a mandatory domestic violence (DV) arrest.

ADMINISTRATIVE NOTE:

This case was designated as an Expedited Investigation. This means that OPA, with the Office of Inspector General's review and approval, believed that it could reach and issue recommended findings based solely on its intake investigation and without interviewing the involved employees. As such, OPA did not interview the involved employees in this case.

On June 22, 2023, the Office of Inspector General certified OPA's investigation as thorough, timely, and objective.

SUMMARY OF INVESTIGATION:

The Complainant alleged that officers responded to an incident that occurred between him and his girlfriend Community Member #1 or (CM#1). The Complainant alleged the officers discriminated against him as a Black man because they did not arrest his girlfriend for assaulting him—causing him to bleed—and did not help him retrieve his property or adequately search CM#1's vehicle. OPA opened an intake and contacted the Complainant over the phone. The Complainant further alleged officers laughed at him when he accused them of discrimination and discussed wanting to press charges against his partner for assault.



OPA reviewed the incident report, bias review template, computer-aided dispatch (CAD) call report, and body-worn video (BWV) for this incident. NE#1 was the primary officer for this call. Body-worn video recorded NE#1's entire interaction with the Complainant and CM#1. The incident report and the bias review template were consistent with BWV and CAD call report. OPA finds by a preponderance of the evidence that the following occurred.

CM#1 called 9-1-1 to report the Complainant was not letting her out of her vehicle. CM#1 was heard yelling, and call remarks noted it sounded as if the CM#1 and the Complainant were running down the street.

NE#1 and two other officers, Witness Officer #1 (WO#1) and Witness Officer #2 (WO#2), arrived on scene. NE#1 spoke to both the Complainant and CM#1.

CM#1 advised she and the Complainant got into an argument while the Complainant was driving her vehicle. CM#1 stated the Complainant began driving erratically. CM#1 stated that once the Complainant stopped the vehicle, he took her keys, exited the vehicle, and started to walk away. CM#1 stated she chased the Complainant and tried to grab her keys, but the Complainant threw the keys onto a nearby property. NE#1 subsequently located CM#1's keys on the nearby property, which corroborated this account.

The Complainant told officers CM#1 threw his cellphone out of the window of the car while they were driving. CM#1 denied doing this. The Complainant further advised CM#1 hit and scratched him. NE#1 noted the Complainant had a small red mark on his arm.

ANALYSIS AND CONCLUSIONS:

Named Employee #1 - Allegation #1

5.001 - Standards and Duties POL-10. Employees Will Strive to be Professional

The Complainant alleged that NE#1 laughed at him when he claimed he was discriminated against and that CM#1 assaulted him.

SPD Policy 5.001-POL-10 requires that SPD employees "strive to be professional." The policy further instructs that "employees may not engage in behavior that undermines public trust in the Department, the officer, or other officers" whether on or off duty. SPD Policy 5.001-POL-10.

OPA reviewed BWV from NE#1, WO#1, and WO#2. BWV recorded the officers' interactions with the Complainant and CM#1. BWV did not record any officer laughing at the Complainant.

Accordingly, OPA recommends this allegation be Not Sustained – Unfounded (Expedited).

Recommended Finding: **Not Sustained - Unfounded (Expedited)**

Named Employee #1 - Allegation #2

5.140 - Bias-Free Policing, 5.140-POL-2 Officers Will Not Engage in Bias-Based Policing

The Complainant alleged that NE#1 engaged in bias-based policing due to his race and/or gender because he did not arrest CM#1 or search her vehicle for his cell phone.



SPD policy prohibits biased policing, which it defines as “the different treatment of any person by officers motivated by any characteristic of protected classes under state, federal, and local laws as well other discernible personal characteristics of an individual.” SPD Policy 5.140-POL. This includes different treatment based on the race and/or gender of the subject. *See id.* Officers are forbidden from both, (i) making decisions or taking actions influenced by bias, and (ii) expressing any prejudice or derogatory comments concerning personal characteristics. *See* SPD Policy 5.140-POL-2.

Based on the circumstances, NE#1 determined the red mark on the Complainant resulted from incidental contact by CM#1 on the Complainant from when CM#1 attempted to recover her keys from the Complainant. Pursuant to the mandatory arrest policy, an assault must occur. In the instant case, CM#1’s intention was to retrieve her keys. CM#1’s contact with the Complainant was not assaultive, but incidental to her retrieving her property. BWV did not show any evidence of bias towards the Complainant based on either his race or gender. Additionally, BWV shows both witness officers searched—with CM#1’s permission—CM#1’s vehicle, CM#1’s purse, and the surrounding area for the Complainant’s cellphone, but were unable to locate it. The officers had no obligation to search for the phone but did so out of courtesy. Moreover, the Complainant repeatedly stated CM#1 threw the cell phone out of the vehicle’s window, which, if true, would make searching inside CM#1’s vehicle irrelevant. Additionally, BWV did not show any of the officers laughing at the Complainant during the incident.

Accordingly, OPA recommends this allegation be Not Sustained – Unfounded (Expedited).

Recommended Finding: **Not Sustained - Unfounded (Expedited)**

Named Employee #1 - Allegation #3

15.410 - Domestic Violence Investigation, 15.410-POL 2. Officers Make Arrests with Probable Cause

The Complainant alleged that NE#1 failed to make a mandatory DV arrest.

SPD Policy 15.410-POL-2 directs that officers are required to make an arrest in a domestic violence incident where there is probable cause that the subject committed an assault or violated a court order within the past four hours. The policy further provides that arrests are otherwise discretionary. SPD Policy 15.410-POL-2.

NE#1’s investigation supported his conclusion that no assault occurred. Instead, NE#1 reasonably concluded that CM#1 scratched the Complainant incidentally while trying to retrieve her keys from him. In review of the totality of the circumstances, based on the evidence provided, OPA finds NE#1 reasonably determined no assault had occurred and therefore no probable cause was established to trigger a mandatory arrest.

Accordingly, OPA recommends this allegation be Not Sustained – Unfounded (Expedited).

Recommended Finding: **Not Sustained - Unfounded (Expedited)**